

REMARKS/ARGUMENTS

The office action of June 26, 2008 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-8 have been amended and new claims 11-27 have been added. No new matter has been added. Claims 9-10 were previously canceled without prejudice or disclaimer. Claims 1-8 and 11-27 remain in this application.

Preliminary Matters

Applicants have amended the specification and drawings in order to correct spelling errors and/or other informalities discovered therein. No new matter has been added.

Rejections under 35 U.S.C. § 103

Claims 1-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. publication no. 20020102984 to Furuskar et al. ("Furuskar") in view of U.S. publication no. 20020089952 to Cao et al. ("Cao"). Applicants respectfully traverse this rejection.

Amended claim 1 recites, among other features:

if the determined load factor exceeds the maximum sustainable load, dynamically negotiating, at a Radio Resource Management level, radio resources to be allocated to at least one of a plurality of services provided by the network into the cell such that the determined load factor per cell is smaller than or equal to the maximum sustainable load.

The Office Action alleges that Furuskar describes that the determined load factor can exceed the maximum sustainable load (see OA, page 4) but fails to teach or suggest dynamically negotiating, at a Radio Resource Management level, radio resources to be allocated to at least one of a plurality of services provided by the network into the cell such that the determined load factor per cell is smaller than or equal to the maximum sustainable load as recited in claim 1. To overcome this deficiency, the Office Action alleges that Cao describes the claim 1 feature of dynamically negotiating, at a Radio Resource Management level, radio resources to be allocated to at least one of a plurality of services provided by the network into the cell such that the determined load factor per cell is smaller than or equal to the maximum sustainable load in paragraphs [0007], [0009]-[0012], and [0021]. Applicants respectfully disagree.

Applicants respectfully submit that paragraphs [0007], [0009]-[0012] of Cao merely describe dynamically scheduling protocol data units (PDU) by relying on two schedulers, where the first scheduler provides a predictable behavior and the second scheduler provides MAC access and allows for bandwidth conserving segmentation and allocation strategies. Paragraph [0021] describes the amount of power that is allocated by the radio resource management unit (RRM) to the packet switched radio bearer. Mere disclosure of a method of dynamic scheduling and a separate discussion on a radio resource management unit does not in any way teach, suggest or otherwise disclose the feature of “dynamically negotiating, at a Radio Resource Management level, radio resources to be allocated to at least one of a plurality of services provided by the network into the cell such that the determined load factor per cell is smaller than or equal to the maximum sustainable load” as recited in claim 1.

Moreover, even assuming, *arguendo*, that the description in paragraphs [0007], [0009]-[0012], and [0021] of Cao somehow constitutes disclosing “dynamically negotiating, at a Radio Resource Management level, radio resources to be allocated to at least one of a plurality of services provided by the network into the cell,” Cao fails to teach or suggest that the negotiation is performed “*such that the determined load factor per cell is smaller than or equal to the maximum sustainable load*” as recited in claim 1. As such, Cao fails to cure the deficiency of Furuskar with respect to claim 1. Therefore, even assuming, but not conceding, that a combination of Furuskar and Cao is proper, the combination fails to result in each and every feature of claim 1.

Claims 2-6 ultimately depend on claim 1 and are at least allowable for the same reasons as claim 1 in view of the advantageous features recited therein.

Claim 7 stands rejected over Furuskar in view of Cao, but Applicants respectfully submit that the Office Action does not include an explanation of how the combination of Furuskar and Cao render obvious the features of claim 7. While the Action expresses that the discussion on page 3 and 4 is applicable to claims 1 and 7, the features discussed therein only apply to claim 1. Indeed, Applicants respectfully submit that a combination Furuskar and Cao, even if proper, fails to result in each and every feature of claim 7. For example, Furuskar and Cao fail to disclose the claim 7 feature of if the code tree cannot host all the codes, dynamically negotiating, at a Radio

Resource Management level, radio resources to be allocated to at least one of the services provided by the network into the cell so as to update the maximum sustainable load. Notably, Furuskar and Cao are wholly silent on the feature of a code tree hosting all the codes, much less teaching or suggesting if the code tree cannot host all the codes, dynamically negotiating, at a Radio Resource Management level, radio resources to be allocated to at least one of the services provided by the network into the cell so as to update the maximum sustainable load as recited in claim 7.

Claim 8 depends on claim 7 and is allowable for at least the same reasons as claim 7 and in further view of the advantageous features recited therein.

New Claims

New claims 11-27 are fully supported by the specification and believed to be allowable over the art of record. For example, claims 12 and 18 include features similar to claim 1 and thus are allowable over the art of record for at least the same reasons as claim 1. Also, claims 24 and 26 include features similar to claim 7 and thus are allowable over the art of record for at least the same reasons as claim 7.

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
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Dated: December 23, 2008

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